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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH,
NORTHERN DIVISION**

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| In re: MICHAEL DEAN JENKINS MONICA JENKINS Debtors. | Case No. 19-25356 Chapter 13 Hon. Joel T. Marker <i>Hearing: December 8, 2021 at 9:30 A.M.</i> |
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**TRUSTEE'S RESPONSE TO DEBTORS' MOTION TO INCUR NEW DEBT,
MOTION TO MODIFY PLAY, AND APPLICATION FOR COMPENSATION**

Lon A. Jenkins, Chapter 13 Trustee, by and through counsel, hereby responds to the above-referenced Motion as follows:

1. As of the date of this response, Debtors are delinquent \$1,114.00.
2. The Trustee opposes the Motion unless the Debtors cure the delinquency prior to the hearing on this matter.
3. This is an above-median case. Debtors are required to make plan payments of \$920.00 per month for 5 months, changing to \$1,050.00 per month for 17 months, changing to \$1,138.00 per month for 9 months, and changing thereafter to \$1,160.00 per month until the end of the plan until nonpriority unsecured creditors receive the greater of \$3,210.00 or the pro rata distribution to unsecured creditors from the 60-month base contributions.

4. The plan payments increased to \$1,071 commencing August 25, 2020, increasing to \$1159 commencing July 2021, and then changing thereafter to \$1,181.00 commencing April 2022. The return to unsecured creditors was increased to the greater of \$3,603.00 or the 60 month base. *See Order at Doc. No. 64.*
5. The Debtors seek to Court approval to: 1) surrender the 2015 Dodge Durango to America First Credit Union (“Creditor”); 2) decrease the plan payment to \$695.00 beginning September 25, 2021; and 3) purchase a replacement vehicle. The return to unsecured creditors remains the same.
6. Claim No. 7 filed by Creditor is secured by the 2015 Dodge Durango. Approximately \$14,254.59 is owed on the claim, not including interest or Trustee’s commission.
7. The Trustee has no objection to the surrender of the vehicle, but requests the following language in the order: “Creditor shall have 180 days from entry of the order to file an amended claim for the deficiency balance. The Trustee shall make no further distribution on the secured portion of the claim but may disburse on any unsecured portion without the filing of an amended claim. The Trustee shall not retrieve any payments made to the creditor prior to entry of the order.”

MOTION TO INCUR DEBT

8. The Motion proposes to purchase a replacement vehicle (2019 VW Jetta) with a loan amount not more than \$26,707.07 with a monthly payment not to exceed \$528.25 per month with interest rate of not more than 12.25% interest for 72 months.
9. The Trustee requests a copy of the final vehicle purchase contract within 3 days of the vehicle purchase.

MOTION TO MODIFY

10. The Debtors propose to modify the plan to decrease the plan payment from \$1,159.00 to \$695.00 beginning with the November 25, 2021 plan payment. The payment will need to increase from \$695.00 to \$717.00 beginning April 25, 2022 due to a step payment.
11. Debtors have not established cause for reducing the payment. 11 U.S.C. § 1325(b) requires that the Debtor contribute all of the projected disposable income in the commitment period to the plan.
12. The Trustee requests that prior to the hearing date, the Debtors file an amended budget and provide two (2) updated pay advices showing their ability to make the vehicle payment and the plan payment.
13. The proposed modification is feasible.
14. Unless a fee application is filed, the Trustee objects to an Order granting fees and costs because the Motion does not comply with 11 U.S.C. § 330 or Fed. R. Bankr. P. 2016.

WHEREFORE, the Trustee objects to entry of an Order granting the relief requested in the Motion.

DATED: December 1, 2021.

Katherine T. Kang /s/
KATHERINE T. KANG
Attorney for Chapter 13 Trustee

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing paper was served on the following person on December 1, 2021.

THERON D. MORRISON
ECF Notification

/s/ KTK
Office of the Chapter 13 Trustee